

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

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Reg. No.: 15-000749
Issue No.: 3001
Case No.: ██████████
Hearing Date: February 12, 2015
County: Wayne 49-Gr River/Warren)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████
██████████ Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 21, 2014, Claimant applied for FAP benefits.
2. On November 21, 2014, the Department sent Claimant an appointment notice for November 25, 2014.
3. On November 25, 2014, the Department sent Claimant a notice of missed interview.
4. On December 22, 2014, the Department sent Claimant a notice of case action informing her that her FAP application had been denied for failure to complete the interview requirement.
5. On January 13, 2015, Claimant requested a hearing to protest the denial of her FAP application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

At the hearing, the Department presented documentation of its having sent an appointment notice to Claimant on November 21, 2014, for an appointment to take place on November 25 2014, four days after the appointment notice was mailed.

On December 22, 2014, the Department sent Claimant a notice of case action denying her FAP application due to Claimant's failure to complete an interview.

Claimant and her mother both testified that Claimant did not receive the appointment notice until after the specified time for the appointment. Both also testified as to their phone call to the Department the following day in an attempt to seek assistance. BEM 130 (October 2014).

This Administrative Law Judge finds Claimant and her mother credible especially given that the notice for the interview appointment was not mailed until four days before the scheduled appointment.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

- acted in accordance with Department policy when it .
- did not act in accordance with Department policy when it mailed the appointment notice four days before the scheduled appointment and failed to respond to Claimant's call to the Department for assistance.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is


AFFIRMED.

REVERSED.

AFFIRMED IN PART with respect to _____ and **REVERSED IN PART** with respect to _____.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Claimant's FAP application retroactive to November 21, 2014, and supplement for missed benefits back to that date.



Michael J. Bennane
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/2/2015**

Date Mailed: **3/2/2015**

MJB / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]